

***The Labor Commission of Utah  
Division of Industrial Accidents***

***Employers' Guide to  
Workers' Compensation***



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# EMPLOYERS' GUIDE TO UTAH WORKERS' COMPENSATION



## ***Q 1 WHAT IS WORKERS' COMPENSATION (WC)?***

**A 1** WC is a wage replacement and medical care program for a worker whose injury or illness is work related.

## **WHO SHOULD BE COVERED?**

### ***Q 2 ARE ALL EMPLOYERS REQUIRED TO CARRY WORKERS COMPENSATION INSURANCE?***

**A 2** All employers are required to carry WC insurance except for the following employer/employee work situations: **some** employers of agricultural laborers, casual or domestic workers, real estate brokers, sole proprietors, partners and members of limited liability companies. Directors or officers of a corporation are considered employees and must exclude themselves from coverage in writing through their WC insurance company. If you have a question about insurance coverage please call the Labor Commission at (801)530-6800 or toll free (800) 530-5090 and asks for the Policy Section.

### ***Q 3 IF I HAVE ANOTHER INSURANCE POLICY THAT IS SIMILAR TO WC, AM I STILL REQUIRED TO CARRY WC INSURANCE?***

**A 3** **Yes**, you are still required by state law to carry WC insurance. Some insurance policies provide 24-hour medical coverage and a wage replacement in the event of an accident; however, the policies are limited and do not provide all the benefits as under WC and do not provide the employer with the exclusive remedy provision.

### ***Q 4 AM I REQUIRED TO PURCHASE WC INSURANCE THROUGH THE WORKERS COMPENSATION FUND (WCF) OR ARE THERE OTHER INSURANCE COMPANIES THAT PROVIDE WC INSURANCE?***

**A 4** **No**, insurance does not have to be purchased through WCF; however WCF can not turn away any employer for insurance coverage.

## **An employer can insure his/her workers in one of three ways:**

- 1.** By purchasing insurance from any private insurance carrier authorized by the Insurance Department to write WC insurance in Utah. An employer can contact their personal insurance agent who handles their auto, home or business liability insurance to see if they can write a WC policy for their company. Most insurance companies can write WC insurance in Utah.
- 2.** By purchasing insurance through the Workers Compensation Fund, a mutual insurance entity required by law to provide WC insurance to any employer in the State of Utah upon payment of the premium.
- 3.** By being self-insured to pay WC directly to employees. Employers who wish to become self-insured must make application through the Labor Commission of Utah. Only very large employers usually meet the minimum requirement of \$10 million net worth to qualify for self-insurance.

**The State of Utah does not allow group insurance.**

**NOTE: Employers should be aware that unemployment insurance is separate from WC insurance. When you purchase unemployment insurance through Workforce Services, you are still obligated to purchase WC insurance through one of three ways mentioned above.**

## **The following Insurance Companies will write WC insurance for small to medium size employers:**

### **Allied Insurance, Utah Builders Insurance & Hartford Insurance**

Benchmark Insurance Agency, Michelle Rasmussen	1-802-397-3434
Cottonwood Insurance Agency	1-801-943-5700

<b>American Liberty Insurance</b>	1-801-568-1800
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### **Farmers Insurance, Truck Insurance & Mid-Century Insurance**

(\$2,500.00 Minimum)  
Any Farmers Agency

### **Hartford Insurance (as few as one [1] employee)**

Aaron Griffith	1-802-685-2779
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### **Liberty Mutual Insurance (\$75,000.00 Minimum)**

Business Sales Department	1-801-685-0515
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### **State Farm Insurance**

Any State Farm Agent

**Workers Compensation Fund**

Underwriting Department

1-801-288-8020

**Zenith Insurance**

Diversified Insurance Brokers

1-801-325-5000

Certified Insurance Agency

1-801-320-1403

**Zurich Insurance, Hartford Insurance & Safeco Insurance**

James Banasky

1-801-371-7803

**Q 5    *WHAT ARE THE POSSIBLE CONSEQUENCES FOR EMPLOYERS NOT PROVIDING WC INSURANCE?***

**A 5**    The Labor Commission may impose a penalty against the employer of \$1,000 or three times the amount of the premium the employer would have paid for WC during the period of noncompliance (**whichever is greater**). An uninsured employer may also be sued for personal injury in a court of law by an injured employee.

**Q 6    *WHAT DOES THE EMPLOYER RECEIVE IN RETURN FOR PROVIDING WC INSURANCE?***

**A 6**    WC is a no-fault system and is the **exclusive remedy** for a worker who sustains an on-the-job injury or illness. A worker cannot sue an employer for personal injury or negligence. Benefits are fixed by law and the employer knows the costs of purchasing the insurance.

**INDEPENDENT CONTRACTORS/SUBCONTRACTORS****Q 7    *WHAT IS THE RELATIONSHIP BETWEEN AN INDEPENDENT CONTRACTOR/SUBCONTRACTOR AND A GENERAL CONTRACTOR?***

**A 7**    A general contractor now has the responsibility of making sure that all his/her subcontractors, including sole proprietors, partners and corporate officers have WC coverage. If WC is not provided by the subcontractor then the subcontractor becomes an employee of the general contractor for WC purposes only and coverage must be provided under the general's policy. The subcontractor, if a sole proprietor, partner or corporate officer, may also apply for an exemption through the Workers Compensation Fund.

**EXCLUSION POLICY/WC COVERAGE WAIVER**

To obtain a waiver, a business entity shall submit to the insurer that issues the waiver a

copy of two or more of the following:

1. State or Federal income tax return that shows business income for the complete taxable year that immediately precedes the day of which business entity.
2. A valid business license.
3. License to engage in an occupation or profession, including a license under Title 59, Occupations and Profession;
4. Documentation of an active liability insurance policy the covers the business entity's activity.

Copy of item listed in Subsection (3)(a) and a copy of two or more of the following:

1. Proof of a bank account for the business entity.
2. Proof that for the business entity there is a telephone number; and a physical location
3. An advertisement of services in a newspaper of general circulation or telephone directory showing the business entity's
  - a. Name
  - b. Contact information

**Q 8 IF I HAVE A PARTNERSHIP, CORPORATION, SOLE PROPRIETORSHIP OR LIMITED LIABILITY COMPANY, AM I REQUIRED TO CARRY WC INSURANCE?**

**A 8** A sole proprietorship, partnership or member of a limited liability company (LLC), with no employees other than the sole proprietor, partners, or members, is not required to purchase WC insurance. Corporate officers and directors are considered employees of the company and are required to have a WC insurance policy; however, the corporate officers or directors may be excluded from coverage under the policy. **The only way to exclude corporate officers is in writing through your WC insurance company.** If you are a sole proprietor, partner, or member of a limited liability company (LLC) and contracting for work through a general contractor, you or the general contractor will be required to provide a WC insurance policy.

**LEASING COMPANIES**

**Q 9 WHAT ARE MY RESPONSIBILITIES FOR WC IF I LEASE MY EMPLOYEES?**

**A 9** The employee leasing company can take care of your company's WC insurance by adding your company as a separate endorsement to the leasing company's policy or purchasing a separate policy for each client employer. Since the client employer is the employer under WC law, you should **ALWAYS** have a current WC policy from the insurance carrier. The **employer** is also responsible for reporting work-related injuries to the Labor Commission. The leasing company is **not** the employer for WC purposes.

## **PAYROLL ONLY COMPANIES**

Payroll only companies are not leasing companies and usually do not provide WC insurance for companies they are providing payroll services to. You are still the employer and will be held responsible for insuring that your company has the required WC insurance. **NEVER ASSUME THAT YOUR WC INSURANCE IS BEING TAKEN CARE OF BY SOMEONE ELSE!**

## **EMPLOYER RESPONSIBILITIES**

### **Q 10 WHAT ARE THE EMPLOYER'S RESPONSIBILITIES UNDER WC?**

**A 10 Posting Notice:** Employers are required to post in conspicuous places typewritten or printed notice stating that they have complied with all the rules and regulations securing compensation insurance to employees and their dependents (notices are available free of charge in English & Spanish at the Labor Commission). The notice should state the name of the insurance carrier, the phone number, and steps to report an industrial claim.

**Reporting Industrial Accidents:** An injured/ill worker has up to 180 days to report an injury or work-related illness to their employer. Once the injury/illness has been reported to the employer, the employer has seven (7) days, to file the Employer's First Report of Injury or Illness (Form 122) with the Commission and submit a copy of the report to their WC insurance carrier and the injured worker.

### **Q 11 IS AN EMPLOYER REQUIRED TO FILE A FIRST REPORT OF INJURY (FORM 122) FOR MINOR INJURIES THAT ONLY REQUIRE FIRST AID?**

**A 11** When in doubt, fill it out. The employer must report all injuries, other than first aid, administered onsite or at employer sponsored free clinic to the insurance carrier. For a complete explanation of what constitutes first aid treatment, **please refer to WC Rule R612-1-3(A)**. You can access this rule at: [www.laborcommission.utah.gov](http://www.laborcommission.utah.gov).

## **Physician Initial Report of Work Injury or Occupational Disease (Form 123)**

The "Physician Initial Report of Work Injury or Occupational Disease (Form 123) is to be filed by the physician or chiropractor to report the initial treatment of an injured employee. This form must be completed when a bill is generated for treatment administered by a licensed health care provider. This form is also to be completed by the health care provider if treatment, beyond first aid, is given at an employer sponsored

free clinic.



**Q 12 WHAT IF I QUESTION THE VALIDITY OF A CLAIM OR HAVE EVIDENCE THAT THE INJURY DID NOT HAPPEN ON THE JOB?**

**A 12** If you dispute the validity of a claim: contact your insurance carrier with specific information as to why you do not feel this is a valid claim or attach a letter to the Employers' Report and submit it to your insurance carrier. **You are still required to submit the Employer's First Report of Injury.** All injuries or illnesses reported to the employer must be filed with the insurance company and the Labor Commission. An employer is **not** allowed to deny any claims unless the Commission has granted the employer the privilege of self-insuring. **Reporting an injury by filing an Employers Report (Form 122) IS NOT AN ADMISSION OF LIABILITY.**

**The employer is to give a copy of the injury report to the employee.** On the back of the employers first report is information which outlines the WC system and how employees can access their benefits. This information is to be given to an injured employee.



**Q 13 CAN AN EMPLOYERS BILL THEIR EMPLOYEESFOR WC COVERAGE?**

**A 13** No, an employer cannot bill their employees for their WC coverage. An employer may be subjected to a wage claim if they deducted WC from an employee's wage. It is the responsibility of the employer to provide WC benefits for their employees.

**Q 14 IF A UTAH EMPLOYER OPERATES OUTSIDE THE STATE OF UTAH, WILL THAT EMPLOYER NEED ADDITIONAL COVERAGE FOR EACH STATE?**

**A 14** Typically, as a Utah employer, if you hire your employees in Utah and they sustain an industrial accident\illness outside of the state, they would be covered under your Utah WC policy. However, to determine whether additional coverage is needed for other states, it would be advisable to contact the Labor Commission to determine whether a reciprocity agreement exists with the state you are doing business in. If there is a reciprocity agreement in place, the Labor Commission would issue an extraterritorial certificate to the employer extending coverage for that State. The certificate would be in effect for six months, and reviewed on request for further extension as needed, not to exceed two additional months. If a company will be operating for a longer period of time, then the employer is obligated to purchase WC



coverage for that state. If there is no reciprocity agreement with the outside state, then the employer is obligated to purchase WC coverage for that state.

If you are not a Utah employer, you are required to contact the Labor Commission of Utah to determine the requirements for WC coverage and whether your state has a reciprocity agreement with Utah.

## **RATE DETERMINATION**

### ***Q 15 HOW ARE WC INSURANCE PREMIUM RATES DETERMINED?***

**A 15** Each employer's rates are determined separately, although employers are grouped by occupation classification for basic rates. The Utah Department of Insurance, which has statutory authority to set the basic rates charged each year, has designated the National Council of Compensation Insurance (NCCI) as its rate making entity. Each employer's rate will differ from the basic rate, which is a dollar amount per hundred dollars of payroll based on the general hazards of the business. Each employer's basic rate is then adjusted to account for their history of injuries.

### ***Q 16 WHAT IS REQUIRED FOR A WC RATE REVIEW IF AN EMPLOYER FEELS THEIR RATES ARE TOO HIGH?***

**A 16** If an employer feels their WC rates are too high they may submit a written request to the insurance carrier for information about the rates being charged.

The insurance carrier should then respond within a reasonable time, furnishing all pertinent rating information to the employer or an authorized representative.

After the information has been received, and the employer still feels the rates or rules have been incorrectly or unfairly applied, the employer may send a second written request which asks for a review of the application of the rates and rules to the insurance carrier. The applicant may request to be heard in person or through an authorized representative.

The insurance carrier must grant the request for review within 30 days. If the insurance carrier does not grant the request for review within 30 days, the employer may appeal in writing to the Insurance Commissioner at the Utah Department of Insurance.

The Insurance Commission may then order the insurance carrier to respond. Following the review of the rates, the employer may request the Insurance Commissioner to confirm that the insurance was rated according to filed rates and rating plans.

If this appeal reveals that the insurance was not afforded according to filed rates and rating plans, the Insurance Commissioner may take regulatory action against the insurance carrier.

## **EMPLOYEE BENEFITS UNDER WC**

### **Q 17 WHAT BENEFITS ARE PROVIDED TO AN EMPLOYEE UNDER WC?**

**A 17** The WC benefit will pay for:

1. Hospital bills, medical bills and prescriptions
2. Wage replacement for time lost from work, due to a work-related injury or illness
3. Burial and dependent benefits in cases of death
4. Mileage for all authorized medical care
5. Permanent partial impairment
6. Permanent total disability

## **WAGE REPLACEMENT BENEFITS**

### **Q 18 WHEN DOES THE WC BENEFIT CHECKS BEGIN?**

**A 18** WC benefit checks begin after the insurance carrier receives the Employer's First Report of Injury (Form 122) and the Physician's Initial Report of Injury (Form 123) indicating time lost from work.

Upon receipt of these reports the insurance carrier has 21 days to accept, deny or notify the injured worker of further investigation. If further investigation is required, the insurance carrier may have an additional 24 days to complete an investigation.

Therefore, the insurance carrier may have a total of 45 days to review the claim and decide whether or not it will be accepted or denied.

WC checks are usually issued every two weeks if the doctor continues to send reports stating the injured worker is still temporarily totally disabled and not able to work.

The worker is not paid for the first three days of lost work unless he/she is off 15 or more days. These days do not have to be consecutive. For example, if the doctor removes the employee from work for five days, he/she would be paid the WC wage replacement for only two days. However, if four weeks later the doctor removes the employee from work for 10 days, then the insurance carrier or self-insured employer would be responsible to go back and pay for the first three days.

### **Q 19 HOW MUCH WAGE COMPENSATION IS PAID TO THE INJURED WORKER?**

**A 19** Workers who are injured on the job or develop an occupational illness are paid  $66 \frac{2}{3}$  percent of their average weekly wage up to the maximum of the state's average weekly wage, which is determined annually by Workforce Services (Job Service). WC lost wage payments are non-taxable income. For more information regarding the

maximum and minimum wage replacement rates, contact your WC carrier or the Labor Commission.

## ***Q 20 HOW LONG WILL THE INJURED WORKER RECEIVE WC BENEFITS?***

**A 20** If the doctor removes the employee from work, temporary total compensation will be paid until the doctor indicates the employee has reached medical stability or has been released to return to work. If there is no job to return to, the employee needs to **apply for unemployment within 90 days of stabilization** or of a full work release. An injured employee can receive a maximum of 312 weeks of compensation benefits. Injured employees who are permanently totally disabled may receive benefits for life.



## ***Q 21 WHAT TYPE OF MEDICAL COVERAGE IS PROVIDED UNDER WC?***

**A 21 Medical coverage.** The injured workers **medical expenses related to the injury** are paid 100 percent by WC and can extend for the lifetime of the worker. However, medical bills from a checkup or other medical attention due to the injury must be submitted to the insurance carrier or the self-insured employer at least once within a consecutive 3-year period to remain eligible. For injuries occurring on or after April 30, 2007, medical care becomes a lifetime benefit so long as the insurance carrier/employer is billed within one year from the date of each medical service. The prior three (3) year statute of limitations if no medical care was incurred or billed within three (3) years still applies to injuries occurring between July 1, 1988 to April 30, 2007.

## ***Q 22 IS THE EMPLOYER REQUIRED TO CONTINUE PROVIDING MEDICAL INSURANCE FOR AN INJURED WORKER AND HIS/HER FAMILY?***

**A 22** It is up to the employer to decide whether or not to continue paying for personal or family health care benefits while an employee is off on WC. This is usually outlined in your company policy. However, in developing such a policy you may want to consult the Family and Medical Leave Act (FMLA) to see if it applies to you. (See section at the back of this booklet for a short description of the FMLA).

## **RELEASE TO RETURN TO WORK**



## ***Q 23 WHEN CAN THE EMPLOYEE RETURN TO WORK?***

**A 23** An employee can return to work when a physician determines the employee has reached a point of medical stability. An employee may also

be returned to a light duty position, if such a position is available. **A LIGHT DUTY WORK RELEASE can be initiated by the physician, the employee or the employer.** There are numerous advantages to initiating a light duty program:

**Lowens costs** for your WC insurance carrier, thus lowering costs to you.

**Saves time and dollars** on recruitment and training of new employees by retaining experienced and proven employees.

Studies have shown the quicker you get injured workers back to work, the quicker they are to rehabilitate and the less likely they are to consult an attorney or seek additional medical treatment so there are **lower medical and legal costs**.

**Maintaining contact with the injured worker decreases recovery time.** If you as the employer do not offer light duty or a modified position to an injured worker, that worker will remain on temporary total compensation until she/he reaches a point of medical stability.

## **LIGHT DUTY OR TRANSITIONAL EMPLOYMENT**

### ***Q 24 IS THE EMPLOYER REQUIRED TO PROVIDE LIGHT DUTY?***

**A 24** No, the employer is not required to provide light duty. However, as mentioned above, there are many advantages to the employer and employee by offering light duty. If you do not provide light duty the employee will receive temporary total benefits until medically stable.

### ***Q 25 IF AN EMPLOYER BRINGS AN EMPLOYEE BACK TO WORK ON LIGHT DUTY, DOES AN EMPLOYER HAVE TO PAY THE EMPLOYEE THE SAME RATE OF PAY AS PAID PRIOR TO THE INJURY?***

**A 25** No, you do not have to pay the employee the same rate of pay. The insurance company would pay 66 2/3 percent of the difference between what the employee was earning at the time of the injury and what the employee is now earning on light duty.

## **OTHER BENEFITS**

### ***Q 26 IS THE INJURED WORKER ENTITLED TO OTHER BENEFITS?***

**A 26** The employee may be entitled to a **PERMANENT PARTIAL IMPAIRMENT**

rating if she/he sustained a permanent impairment due to a job related injury. It is a partial impairment if the employee is able to return to work. Impairment ratings are determined by a doctor.

The employee may be considered for PERMANENT **TOTAL DISABILITY COMPENSATION** if she/he has sustained a permanent disability which is totally disabling and prevents the employee from returning to any type of work. Statutory permanent and total disabling conditions are: loss of two limbs such as legs or arms, loss of eyes, or a combination. Any other injury which results in a permanent impairment is potentially a permanent total disability if the injured worker is not returned to work.

**ARTIFICIAL PROSTHESIS AND APPLIANCES:** The insurance carrier or self-insured employer shall pay a reasonable sum for artificial means, appliances, and prostheses necessary to treat the employee. Broken appliances such as eye glasses may be replaced, if medical treatment is necessary.

**DEATH AND BURIAL BENEFITS:** When death of an employee is the result of a work related injury or illness, death benefits will be paid by the insurance carrier or self-insured employer to the spouse and/or dependents. There is also an allowance for burial costs.

## **CHOOSING A MEDICAL PROVIDER**

### ***Q 27 MAY THE EMPLOYER OR INSURANCE CARRIER DESIGNATE WHERE EMPLOYEES ARE TREATED FOR INDUSTRIAL ACCIDENTS?***

**A 27** Yes, the insurance carrier or employer has the right to designate a preferred medical provider for the first visit and any hospital care. The injured worker **must** first seek medical treatment from the preferred provider, if one exists.

### ***Q 28 IS AN INJURED WORKER ENTITLED TO ANY DOCTOR CHANGES IF SHE/HE IS UNHAPPY WITH THE PREFERRED PROVIDER MEDICAL TREATMENT?***

**A 28** Yes, injured workers are entitled to one doctor change. However, they need to notify the insurance carrier as soon as possible of the change. A referral from their treating doctor to another doctor is not considered a change, or is a change from an emergency room doctor to a private doctor, unless the emergency room is named as the company doctor.

**NOTE:** If the doctor the employee has chosen is not a part of the preferred provider

network (PPO) established by the employer or the insurance carrier, and the doctor performs surgery at a hospital not part of the PPO network, the injured worker will be liable for the difference between the PPO contract and the cost of the hospital treatment if the injured worker has been notified of the PPO hospital.

**Q 29 CAN AN EMPLOYER PAY THE MEDICAL BILLS RATHER THAN SUBMITTING ALL MEDICAL BILLS FOR A WORKPLACE INJURY TO THEIR WC INSURANCE CARRIER?**

**A 29** No, the employer cannot pay for any medical expenses relating to an industrial injury/illness. All claims must be filed and submitted to the WC insurance carrier, unless the Labor Commission has granted the employer the right to self-insure all of their WC claims.

Effective July 1, 2008, an employer who is not a self-insured employer, as defined in the Utah Code Section 34A-2-201.5, may not pay a benefit provided for under this chapter and Chapter 3, Utah Occupational Disease Act, directly: to an employee; or for the employee. (See Senate Bill 56, "Workers' Compensation Related Amendments" passed by Utah Senate and House and signed into law by Governor Huntsman.)

**Q 30 IS AN EMPLOYER REQUIRED TO GIVE INJURED EMPLOYEES TIME OFF TO GO TO THERAPY OR THE DOCTOR AFTER THEY HAVE BEEN RELEASED TO FULL DUTY?**

**A 30** The injured employee may receive paid leave for doctor visits and therapy after they have returned to work. If you have questions, please check with your insurance representative.

**Q 31 IS AN EMPLOYER RESPONSIBLE FOR PROVIDING WC COVERAGE FOR AN INTERN OR STUDENT PARTICIPATING IN AN INTERNSHIP AT THE EMPLOYER'S WORKSITE?**

**A 31** **Maybe - No**, if an intern or student participating in an internship **for school credits only**, the intern or student is considered to be covered as an employee of the sponsoring public or private school for the purposes of WC. If injured, the student or intern's medical benefits only are covered. However, **Yes, if you pay the student a wage**, the student or intern becomes one of your employees and must be covered under your policy.



**Q 32 WHAT CAN AN EMPLOYER DO IF THEIR EMPLOYEES CONSTANTLY IGNORE SAFETY RULES AND AS A RESULT THERE HAVE BEEN NUMEROUS INJURIES SUSTAINED?**

**A 32** Remind employees that if they are injured on the job due to their willful failure to obey any order or reasonable rule adopted by the employer for their safety, compensation may be reduced by 15% by order of an Administrative Law Judge.

### **DRUG AND ALCOHOL USE**



**Q 33 WHAT IF THE USE OF ILLEGAL DRUGS OR ALCOHOL CAUSES AN ON-THE-JOB INJURY? IS THE EMPLOYER STILL RESPONSIBLE?**

**A 33** No disability compensation (wage replacement) is awarded, except in the event of death, when the major contributing cause of the injury is the employee's:

1. Use of illegal substances;
2. Intentional abuse of drugs in excess of prescribed therapeutic amounts;
3. Intoxication from alcohol with a blood alcohol concentration of .08 grams or greater as shown by a chemical test. Only the medical costs for the injury will be paid.

**NOTE:** The employer must have a drug policy in place to test employees for alcohol or drug use.

**Q 34 CAN AN EMPLOYER TERMINATE AN EMPLOYEE WHO HAS BEEN INJURED ON THE JOB IF THEY CANNOT RETURN TO WORK AT FULL DUTY AND/OR WITHOUT LIMITATIONS?**

**A 34** It is considered poor judgment for an employer to terminate any employee without considering the possible consequences of such action. However, there is nothing in the Utah WC Act which prohibits an employer from terminating an employee. If the employer has 15 or more employees, the employee may fall under the Americans with Disabilities Act. (See back of booklet for a short description of the Americans with Disabilities Act and other employment laws.)

### **CONTROLLING WC COSTS**

**Q 35 HOW CAN AN EMPLOYER CONTROL OR LOWER WC COSTS?**

**A 35 SAFETY PROGRAM:** The best way for an employer to lower WC costs is to prevent injuries. Serious injuries cost a lot of money. Training employees in safety pays off in reduced costs. Involve your employees in identifying hazardous work practices or potential injurious situations, areas or machines.

Each employer should actively become involved in each WC case. Communicate on a regular basis with your employees who are out on a WC claim. Research indicates that employers who routinely do only one thing—call the employee right away and say, “How are you doing? Hope you get back soon”—reduce their disability claims by 21 percent.

If your company conducts an accident investigation after an incident, make sure it is **NOT** designed to find fault or blame. The primary purpose of an investigation should be to develop information that leads to change and prevents similar accidents from occurring. **WC costs can be controlled through active employer involvement.**

**MANAGED HEALTH CARE:** Self-insured employers and WC carriers may adopt a managed health care program. If a preferred provider program (PPO) is developed, employees are required to initially utilize preferred provider physicians and medical care facilities. Failure of an industrial claimant to utilize a PPO facility or failure to initially receive treatment from a preferred physician may, if the claimant has been notified of the program, result in the claimant being obligated for any charges in excess of the preferred provider allowances.

By developing a PPO, an employer is also able to establish a relationship with a medical provider. The employer can familiarize the treating physicians with the type of work performed by providing a tour of the facility or provide job descriptions listing the essential functions of each job. The physician, having a clearer understanding of the type of work performed, is more likely to release the injured worker either back-to-work or to a modified position.

**EARLY RETURN-TO-WORK PROGRAM:** The employer’s designated physician should be made aware of the work performed and the physical requirements of the job essentials. This will enhance the ability of the employer to bring employees back quicker to an appropriate job and lower the employer’s WC costs and the cost for personnel replacement. Writing good job descriptions outlining the essential functions of each job can also assist in complying with the American with Disabilities Act.

**REVIEW YOUR QUARTERLY WC CLAIMS:** Request a quarter claims loss statement from your insurance carrier and carefully review all claims paid for the quarter by the insurance carrier. If you dispute any payments, you need to contact your insurance carrier.

**SAFETY CONSULTATION:** The Utah Labor Commission provides FREE safety consultations for companies. Please contact the Utah Safety and Health Consultation Program at 530-6901 or 1-(800)-530-5090 for assistance with safety programs.



**MEDIATION:** The Utah Labor Commission now offers a mediation program to resolve WC claims without the need of additional expense for litigating a case. For more information please call 530-6800 or 1-800-530-5090.

## **FRAUD LAW IN WC**

A fraud law involving WC was passed in the 1993 legislative session and became effective May 3, 1993. The new law makes it a criminal offense to (1) knowingly present false or fraudulent information in obtaining WC insurance coverage, (2) file or cause to be filed a claim for disability compensation or medical benefits, or (3) submit a false or fraudulent report or billing for health care fees or other professional services.

An employer giving false or fraudulent payroll or occupational information to an insurance carrier in order to obtain a lower premium for WC insurance coverage could be prosecuted for fraud. An employee making a false or fraudulent claim for benefits, either medical or disability compensation, could be prosecuted for fraud, and any medical provider or others falsely or fraudulently billing for professional services for WC could be prosecuted for fraud. Fraud is a crime subject to fines and even confinement in the state prison.

## **THE FAMILY AND MEDICAL LEAVE ACT (FMLA)**



**The Family and Medical Leave Act is separate from WC.** This federal law became effective August 5, 1993, and it may apply to some employment situations. The FMLA requires “covered” employers to provide up to 12 weeks of unpaid, job protected leave to “eligible” employees for certain family and medical reasons. For more information, please contact the nearest office of the Wage and Hour Division, listed under U.S. Government, Department of Labor, and Employment Standards Administration.

## **THE AMERICANS WITH DISABILITIES ACT**

The Americans with Disabilities Act (ADA) makes it unlawful for an employer to discriminate in employment against a qualified individual with a disability. The ADA requirements apply to employers with 15 or more employees.

Whether an injured worker is protected by the ADA will depend on if the person meets the ADA’s definition of an “individual with a disability.” The person must have an impairment that substantially limits a major life activity, have a “record of” or be “regarded as” having such an impairment. Also, she/he must be able to perform the essential functions of a job currently held or desired, with or without accommodations.

Clearly, not every employee injured on the job will meet the ADA definition.

However, if an employer feels their employee may meet the requirements and an employer has questions regarding their responsibilities, they should contact the Division of Anti-Discrimination of the Utah Labor Commission at (801) 530-6801, or toll-free in Utah at 1 (800) 222-1238.

## **Professional Assistance at Your Request**

**For additional information on workers' compensation or to schedule an Workshop or Seminar at your worksite, please contact the Division of Industrial Accidents at (801) 530-6800 or call toll-free at 1 (800) 530-5090.** The Division of Industrial Accidents offers an Outreach Program to educate the public on the Workers' Compensation in Utah. Upon request, the Division will send a staff trainer to your work site or meeting place to conduct an informational presentation at your selected time and date. Presentations are professionally created to meet the needs of your particular group (medical providers, employer or employee groups, associations, unions, insurance providers, etc.)

For assistance in making your workplace a safer environment contact the Utah Occupational Safety and Health Division (UOSH) at (801) 530-6901 or call toll-free at 1(800) 530-5090. Ask for the UOSH Private Sector Consultation Services available at employers' request and direction – a confidential, non-penalty approach to safety and health concerns in the workplace, at no-charge. UOSH offers 1) surveys to identify workplace hazards; 2) safety and health program review; 3) industrial hygiene sampling; 4) safety and health training; 5) safety and health information; 6) safety and health excellence awards; and more.